

INVESTIGATIONS OF THE NATIONAL WAR EFFORT

REPORT

COMMITTEE ON MILITARY AFFAIRS HOUSE OF REPRESENTATIVES

SEVENTY-NINTH CONGRESS

SECOND SESSION

PURSUANT TO

H. Res. 20

A RESOLUTION AUTHORIZING THE COMMITTEE
ON MILITARY AFFAIRS TO STUDY THE PROG-
RESS OF THE NATIONAL WAR EFFORT



JANUARY 30, 1946.—Committed to the Committee on the Whole House
on the State of the Union and ordered to be printed

UNITED STATES
GOVERNMENT PRINTING OFFICE

81208

WASHINGTON : 1946

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Mr. MAY, from the Committee on Military Affairs, submitted the following

REPORT

[Pursuant to H. Res. 20]

BLUE DISCHARGES

This report deals with blue discharges issued to enlisted men.

There are three types of discharge from the Army: (1) Honorable, (2) dishonorable, and (3) without specification as to the character of the service, and therefore "neither honorable nor dishonorable." The third type, in the case of an enlisted man, is commonly called a "blue discharge" because the form used (W. D. A. G. O. Form 53-56) is blue in color.

Repeated complaints have arisen from all parts of the country in connection with the blue discharge. Special complaint centers around the particular type of blue discharge commonly referred to both inside and outside the Army as the "Section 8" discharge, although that term is no longer appropriate, as the regulation on which discharges of this type are based no longer contains a specific section so numbered. Section 8 discharges are given on grounds of "undesirable habits and traits of character," and are often referred to as "character discharges." They are described more fully in official language below.

It should be borne in mind that even a moderate amount of complaint in a matter of this sort is significant. For a person to make such a complaint in his own case implies that he feels a sense of injustice so great that he is willing to risk publicizing the stigma of having been discharged from the Army under circumstances which savor of disgrace. For each complainant there are many more persons who feel the same sense of injustice but prefer to bury their hurt in as much oblivion as possible.

CASES IN WHICH BLUE DISCHARGE IS GIVEN ACCORDING TO
REGULATIONS

Under existing Army Regulations, a discharge of the third type may be given in the following cases:

1. Misconduct: Fraudulent entry into the Army (sec. I AR 615-366, as amended by Changes No. 1, July 24, 1945).

2. Misconduct: Desertion or aggravated absence without leave bordering on desertion, plus physical unfitness for military service (sec. II, AR 615-366). As here used, the term "physical unfitness" means medical or surgical conditions that permanently incapacitate for military service or mental deficiency and constitutional psychopathy that obviously cannot be adapted to military service; but does not include a physical disqualification that is temporary and curable within a reasonable time or a lack of capacity to distinguish between right and wrong.

3. Misconduct: Final conviction by a civil court of an offense the nature of which clearly indicates that the individual is not a suitable person to associate with enlisted men, or of one of the heinous crimes of treason, murder, rape, kidnaping, arson, sodomy, or pandering, or of any crime of sex perversion, or of prostitution, or of any illegal dealing in narcotics or other habit-forming drugs; or imposition by a civil court, upon conviction of any offense, of a sentence for a period in excess of 1 year in a prison or penitentiary (sec. III, AR 615-366).

4. For the convenience of the Government: Where the enlisted man at the time of induction was an alien of any enemy country or a country allied with the enemy, and prior to such induction objected in writing to service in the Army of the United States, and is unwilling to serve in the Army in any capacity (par. 3d, AR 615-365). In this type of case a blue discharge is mandatory.

5. Upon approval by the appropriate authority of the recommendation of a board of officers, convened for the purpose, that the enlisted man be given a blue discharge because of undesirable habits or traits of character (AR 615-368). Under these circumstances, a blue discharge is mandatory. "Undesirable habits or traits of character" are those which render the individual's retention in the service undesirable and because of which his rehabilitation is considered impossible, after repeated attempts to accomplish the same have failed; or those which evidence a psychopathic personality, manifested by antisocial or amoral trends, criminalism, chronic alcoholism, drug addiction, pathological lying, or homosexuality during service, and because of which the individual cannot be rehabilitated to render useful service.

6. Upon approval by the appropriate authority of the recommendation of a board of officers, convened for the purpose, that the enlisted man be given a blue discharge because his service has not been honest and faithful and he is not entitled to a character at least "good" (par. 4 b, AR 615-360). Under these circumstances, a blue discharge is mandatory. An enlisted man—otherwise entitled to an honorable discharge because of physical disability (par. 10, AR 615-361, as amended by Changes No. 2, Mar. 1, 1945), or because of minority (sec. II, AR 615-362), or because of dependency (sec. III, AR 615-362) or for the convenience of the Government (AR 615-365), or upon a writ of habeas corpus (AR 615-367)—will be given a blue discharge

if the approved proceedings of a board of officers, convened under paragraph 4 b, AR 615-360, determines that his service has not been honest and faithful and he is not entitled to a character at least "good." Although paper of a blue color was not employed until 1918, the practice of issuing discharges of this character is one of long standing in the War Department. Blue discharges to the number of 51,936 were issued from December 7, 1941, to June 30, 1945.

With a view to rectifying the mistakes and injustices which can so easily arise in connection with Army discharges, the Servicemen's Readjustment Act of 1944 provided for a Discharge Review Board to be established in the Office of the Secretary of War. To this board appeals may be made, and the board has authority to alter the type of discharge in any case upon which it passes except when a dishonorable discharge is directed by a court martial. How completely the establishment of this review board solves the problem involved will be discussed later.

PROCEDURES IN THE SIX TYPES OF CASES LISTED ABOVE

Nos. 1, 2, and 3 are grouped in Army Regulation as "discharges for misconduct." The first type, that of fraudulent enlistment, covers cases of concealment of previous desertion from the armed forces, concealment of separation from the armed forces with a discharge other than honorable, concealment of civil criminal record. Depending on circumstances, the person involved may be discharged from the Army with a blue discharge, or a waiver may be granted and the person remain in the service. Final decision is made by commanding generals of service commands or other designated authorities. No. 2 provides for the administrative discharge of deserters and absentees whose offense is aggravated to the point of bordering on desertion, and who at the same time are found physically unfit for military service. The appropriate military authority may order discharge. Blue discharge is mandatory. No. 3 covers cases of convictions for serious offenses by civil courts. The appropriate military authority may exercise discretion in discharging the offender; but if he orders discharge, the blue discharge is mandatory. No. 4, "discharges for the convenience of the Government," are given under a variety of circumstances, such as to enable an enlisted man to accept a commission, for erroneous induction, because of being essential to agriculture. These discharges are honorable, of course. The blue discharge is mandatory only in the case of alien enemies under conditions described above.

Nos. 5 and 6, for which blue discharges are mandatory, are determined by decisions of boards of officers. As these two categories are the ones most in question, it will be well to consider the procedure involved.

BOARDS OF OFFICERS

When an enlisted man gives evidence of undesirable habits or traits of character or of a psychopathic personality, and cannot be rehabilitated, his company or detachment commander reports the facts to his commanding officer. The latter convenes a board of officers—three if possible, one of whom will be a medical officer—to determine whether the enlisted man should be discharged. In the event the "enlisted

man" is a woman, an officer of the Women's Army Corps serves on the board. The officer making the original report is ineligible to serve. When available a psychiatrist "or officer possessing such experience" is called as a witness. Members of a board need not be sworn. The person investigated is duly notified of time and place of meeting, the allegation to be investigated, the names of witnesses. On timely written request, the person investigated may have additional witnesses called if available. The person is not entitled as a matter of right to have counsel, and does not in practice usually do so. The board is not bound by the rules of evidence prescribed for trials by court martial, the proceedings being regarded as administrative in nature. The individual under investigation may be present at all open sessions and cross-examine adverse witnesses. The regulations do not provide for the presentation of a written brief in his own behalf, though the privilege may be granted.

In these cases the board of officers recommends either discharge or retention of the enlisted man in service. The convening officer endorses on the proceedings his approval or disapproval and forwards them for review to the commander having general court-martial jurisdiction. This commander determines the propriety of the action recommended and takes appropriate steps for its execution. While the regulation (AR 615-368, par. 1 f (2) and par. 5 b) seems to imply that this commander may authorize an honorable discharge, it is generally understood, as stated above, that a blue discharge is mandatory, and this seems confirmed by paragraph 5 a of the regulation.

OPPORTUNITIES FOR INJUSTICE IN BLUE DISCHARGE PROCEEDINGS

It is clear, from what has just been said, that Army regulations governing the dismissal of enlisted personnel without specification as to character of service in categories 5 and 6 above (p. 2) are intended to apply only to genuinely serious cases and to offer safeguards against misuse of this provision for ridding the service of undesired persons without resorting to court-martial procedure. "Undesirable habits and traits of character," for example, does not mean simply bad habits which might be referred to in these terms in ordinary parlance, but matters so serious as to render retention in the service undesirable. "Psychopathic personality," "amoral trends," "criminalism," "chronic alcoholism," "pathological lying" are named along with the rather more specific and tangible matters of drug addiction and sexual misconduct. It is, moreover, insisted upon (in the regulations) that this procedure shall be involved only after repeated attempts at rehabilitation of the offender have failed, although it is not directed that those attempts shall include what would seem to be the most natural thing to do under the circumstances, i. e., transfer the offender to another organization where he would serve under other commissioned and noncommissioned personnel.

However careful in intention the regulations may be, no one who has had much experience of human nature can doubt that opportunity is afforded in this whole procedure for the exercise of those undesirable instincts which sometime induce, in petty men with authority over the lives of others, states of personal antagonism and acts of personal tyranny. No regulations, probably, could be made absolutely fool-proof in this regard. The relative informality of the board-of-officers

procedure and its relative secrecy open the door to its misuse, however, and instances keep coming to light which indicate that abuses which are theoretically possible do actually exist. It is significant that the discharge review board has seen fit to change a blue to an honorable discharge in about one-third of the cases it has so far considered.

While the regulations prescribe that this procedure apply only for very serious matters of a criminal or psychopathic nature, things like irresponsibility, poor judgment, inability to learn, crop up in the records. While the regulations prescribe that (in category 5, at least) the enlisted man be informed in advance of the specific allegations against him, it is not clear that this is always done. The subject of the proceedings is an enlisted man called before a board of commissioned officers, themselves fortified by the presence of a medical officer; but he has no counsel and no brief is made on his behalf. In records seen, there has been no emphasis on evidence of "repeated attempts" at rehabilitation, nor is the giving of a new chance by transfer required. The proceedings may be dominated by a psychiatrist, or a report from one, or at any rate from "an officer possessing such experience." There are not many psychiatrists in the country who can really unravel the workings of the human mind, but there are thousands of "trained psychiatric examiners" in the Army who profess to do this and whose dogmatic opinions, typed out on paper, look very impressive. While the accused (this is not the technical term for him, but it comes to that) is "ordinarily" permitted to be present and to cross-examine witnesses against him, he has "no vested right" to either of these privileges, and it would be rare indeed that an enlisted man, especially one of nervous or "psychopathic" tendencies, would have either the hardihood or the skill to exercise these privileges effectively.

A record of the proceedings is kept, but no copy of it is made available to the soldier or his friends.

These facts, combined with the vague nature of the charges or allegations that may be preferred under such captions as "Habits and traits of character," open the way for dismissal from the service under what (as we shall later see) amounts for most practical purposes to a dishonorable discharge, although the law prescribes that a dishonorable discharge may be given only by sentence of a general court-martial.

It might be replied that it is always open to the person discharged in this way to appeal to the Secretary of War's Discharge Review Board, which was set up by direction of the Servicemen's Readjustment Act of 1944, the so-called GI bill of rights. It was, of course, intended by Congress that this board should correct any inequity in the blue-discharge procedure. For example, in the discussion of the above-mentioned bill, the Honorable B. W. Kearney, of New York, who has had a long experience in the Army, retiring in 1945 with the rank of major general, spoke as follows:

First, let me say that there are three kinds of discharge, an honorable discharge, a dishonorable discharge, and the one to which I have just referred, the so-called blue discharge. This discharge is neither an honorable discharge nor a dishonorable discharge—it really is a discharge without honor. Individuals have been given these discharges for various reasons—some as a result of their own misconduct and others for the reasons that in the minds of their commanding officers they were never intended for the lot of a soldier, sailor, or marine. These men in many instances were of excellent character, but the possession of such a discharge

will brand them for life. Let a holder of such a discharge attempt upon his return to civil life to obtain a job—the employer, upon first looking at the discharge paper, turns thumbs down. The provision of reviewing boards is an excellent one and will result in correcting many a rank injustice.

Doubtless the Board of Review of which such hope was entertained has been faithfully functioning along the expected lines, but there are certain limitations which inhere in this kind of corrective action.

The board consists at present of two panels, each of five members. It sits only in Washington. The applicant has the privilege of appearing in person, with counsel, but he must travel at his own expense from whatever distant part of the country he may happen to live. The only testimony the board can receive in his favor, if he is not personally present, must be in the form of affidavits; in such a case there is no opportunity for personal clearing up of points that may not happen to be fully covered in the affidavits. Incidentally, it is often very difficult to procure affidavits from possible witnesses who, by the time the matter comes up for a hearing, may be scattered around the world in the military service or around the United States in their several homes. The final judgment of the review board must be based in most cases entirely upon written documents while the main mischief was done (if mischief there were) long before, and the personal presence and manners (which often matter so much) of the complaining officer and of his witnesses and of the members of the board of officers are absent. The applicant is handicapped in his appeal by never having been furnished a copy of the proceedings of the original board of officers. Moreover, the process of studying an appeal has until recently taken a long time—3 or 4 months or more after the board receives the War Department's history of the former soldier from the Adjutant General's office, although at the present time steps are being taken to expedite the process.

Meanwhile the holder of the blue discharge has been looking for a job, and often in vain because of the blue discharge. He must be of rather unusual strength of mind, and perhaps of unusual financial resources as well, if he is to see the process through. A later after-correction, even if it comes, is often poor recompense for an initial injustice. The new honorable discharge is not dated back to the time of the original discharge.

EFFECT ON THE CAREER OF THE PERSON DISCHARGED

The meaning of an "honorable" or a "dishonorable" discharge, while actually of a definitely technical nature in both cases, is something which the public readily understands, or at any rate thinks it understands. This is not the case with a discharge which is stated to be "neither honorable nor dishonorable." Further explanation is still more mystifying. It gives the impression that there is something radically wrong with the man in question, something so mysterious that it cannot be talked about or written down, but must be left to the imagination.

The effect of this upon the fortunes of ex-soldiers with blue discharges is very serious, so serious in fact that such ex-soldiers have been known to ask for an out-and-out dishonorable discharge. That at least is something that can be explained or even perchance explained away. But the ex-soldier, looking for a job and seeking to

rehabilitate himself in some civilian sphere of life for which he may be better fitted than for the military service, must approach a prospective employer with a large sheet of striking color in his hand instead of the customary white one. He meets with instantaneous suspicion. It is a vague suspicion of something mysteriously but dreadfully wrong which may be actually more detrimental to the seeker after employment, than something specific which can be discussed. A man might say, "I stole some money," and be given a chance; but if compelled to explain that he had undesirable "habits and traits of character," he is damned at the start. One of the men who found himself in this predicament, decided the most difficult thing of all to meet was a constantly repeated query: "What's the matter with you? Are you crazy?" Actually the Army gives great numbers of men who have had psychoneurotic disturbances, and who still have some degree of so-called battle fatigue, an honorable discharge, though they may turn out far more unsatisfactory to employers than many holders of a blue discharge. Of course, moral suspicions are also aroused, all the worse for being vague. A man may get a blue discharge from the Army for enuresis, if in connection with his enuresis his conduct during the current period of service has been such as to render his retention otherwise undesirable, although that conduct might not have been sufficiently bad to have brought about his discharge without the enuresis (otherwise the enuresis would not have been brought into the picture), while enuresis alone entitles the sufferer to an honorable discharge. A parallel situation exists where desertion or aggravated absence without leave stands in the record along with physical unfitness. (In some such cases this provision practically amounts to the imposition of additional penalty, after a sentence has been served, for the same offense.) There are many court-martial offenses which do not carry with them a dishonorable discharge, although some of them would look pretty serious to an employer.

The fact is that while the Army purports to be exercising moral judgments and affixes moral labels to individuals, its incursions into this highly subjective field are confused by practical considerations of military expediency. This is not unnatural, but it does raise the question of the necessity for affixing character labels at all. The holder of a blue discharge lands in a predicament not fundamentally different from that of the holder of a yellow or dishonorable discharge received as the result of an open trial in a court martial under the Articles of War. He finds it very difficult to get a job. The public is warned against the man by the appearance and wording of his discharge certificate in both cases. With an irony perhaps unconscious the same regulation which deals with these discharges on the basis of undesirable habits or traits of character contains a direction that the discharging authority shall maintain close contact with the United States Employment Service and make "every effort" to cause men so discharged to accept employment in industry or agriculture.

In addition to the difficulty of getting a job, the holder of a blue discharge does not get mustering-out pay, and finds, too, that he is barred from unemployment compensation. He is ineligible for membership in the American Legion and possibly other veterans' organizations. Some surety companies will not go his bond. Some colleges will not accept him as a student or a teacher.

VETERANS' BENEFITS

In passing the Veterans' Readjustment Act of 1944 (the GI bill of rights), the Congress avoided saying that veterans' benefits are only for those who have been honorably discharged from the service. The general provision seems manifestly clear:

The discharge or dismissal by reason of the sentence of a general court martial of any person from the military or naval forces, or the discharge of any such person on the ground that he was a conscientious objector who refused to perform military duty or refused to wear the uniform, or otherwise to comply with lawful orders of competent military authority, or as a deserter, or of an officer by the acceptance of his resignation for the good of the service, shall bar all rights of such person, based upon the period of service from which he is so discharged or dismissed, under any laws administered by the Veterans' Administration (Public Law 346, 78th Cong., sec. 300).

Educational benefits under the bill are covered by two paragraphs:

Any person who served in the active military or naval service on or after September 16, 1940, and prior to the termination of the present war, and who shall have been discharged or released therefrom under conditions other than dishonorable, and whose education or training was impeded, delayed, interrupted, or interfered with by reason of his entrance into the service * * * shall be eligible for and entitled to receive education or training under this part (sec. 400).

A discharge or release from active service under conditions other than dishonorable shall be a prerequisite to entitlement to veterans' benefits provided by this Act or Public Law Numbered 2, Seventy-third Congress, as amended (sec. 1503).

It would appear from the very awkwardness of the language employed, the phrase "under conditions other than dishonorable" instead of the more natural phrase "an honorable discharge," that Congress was generously providing the benefits on as broad a base as possible and intended that all persons not actually given a dishonorable discharge should profit by this generosity.

The holder of a discharge which the Army itself tells him is not dishonorable (it being "neither honorable nor dishonorable") might be pardoned for thinking that he is covered by benefits which the law assigns to those whose discharge is "under conditions other than dishonorable." He soon discovers his mistake. The Army may say his discharge is neither honorable nor dishonorable, but the Veterans' Administration (with the approval of the Army) says, in many instances, that it is really dishonorable after all, and he is not entitled to education or other benefits.

Nothing could more clearly prove the anomalous and illogical and disingenuous nature of the blue discharge than this policy of the Veterans' Administration. That Administration does not take the discharge at its face value of "neither honorable nor dishonorable." It seeks to resolve the questions which the Army has evaded and even assumes the right to separate the sheep from the goats. It says to one holder of a blue discharge, "Your separation from the service was under conditions which we adjudge to be dishonorable" and to another, "Your separation was under conditions which we adjudge to be other than dishonorable." In this connection the Veterans' Administration studies all the Army's written records concerning the soldier.

By what authority does the Veterans' Administration pass upon the merits of a soldier's career after the Army has already passed

upon them? In support of its right to do so, the Veterans' Administration cites section 300, Public Law No. 346, Seventy-eighth Congress (quoted above), the "legislative history" of the act, and, with especial stress, the fact that its administrative instructions have been "coordinated with the War and Navy Departments in order that the determination of the Veterans' Administration would be as nearly as possible in line with the traditional views of the services as to what conditions are considered honorable or dishonorable."

If the last clause is true, then the Army emphatically does not mean what it says when it asserts that the blue discharge is neither honorable nor dishonorable. As to the merits of the construction of the law involved, it seems fairly clear that the generosity which Congress intended is being restricted, although legal opinion differs on the subject.

More informally, Veterans' Administration officials have made a point as follows: The blue-discharge man has a poor record in the Army, otherwise he would get an honorable discharge. Soldiers who have been in combat service and made a good record will resent similar benefits to theirs going to men with poor records. Those who propound the argument are but ill acquainted with soldier psychology. Every soldier knows that many men, even in his own company, had poor records, but no one ever heard of a soldier protesting that only the more worthy should receive general veterans' benefits. "This man has evaded duty, he has been a 'gold bricker,' he was hard to live with, yet he was a soldier. He wore the uniform. He is one of us." So they feel. Soldiers would rather some man got more than he deserves than that any soldier should run a chance of getting less than he deserves.

The Veterans' Administration should be estopped from passing moral verdicts on the history of any soldier, and should be required to accept all veterans but those expressly excluded by Congress in section 300 of Public Law No. 346, and any others who in its judgment should be excluded. The present arrangement for holders of the blue discharge constitutes a "squeeze play" between the War Department and the Veterans' Administration. The Veterans' Administration, a civilian agency, is exercising something like court-martial jurisdiction, only without court-martial judicial procedure, over men whom the Army has been unable or unwilling to subject to dishonorable discharge by court martial.

ARE BLUE DISCHARGES NECESSARY?

Industry appears more humane than the Army in connection with discharges. It does not set itself up to interdict a man whom it finds unsatisfactory from ever attaining a successful future, by stigmatizing either his ability or his character. Practices vary, of course. Generally no certificate of discharge is given; the man is free to make or mar his own future. One State in the Union requires a discharge certificate to be given all men leaving employment; one large industry and some other progressive employers throughout the country follow the same practice. The man who leaves employment because the work is finished and the company no longer needs his service, or who leaves voluntarily, or who is discharged because he is unsatis-

factory, is given a simple document containing little, if any, more than this information about him:

His name;

The capacity in which he was employed;

The period of service during which he was employed.

No rating of the quality of his services is usually given and no statement as to the reason for his separation from the company. This document is sufficient to verify to a prospective employer any claim by the man in question that he was formerly in the employ of a particular concern. If connections are close enough, the prospective employer may make inquiries of the former employer as to the character and efficiency of the aspirant for a job, but such information is usually given out with reserve and only to responsible persons. The personal habits and traits of character of the former employee are not assessed, and individuals are not graded for public consumption.

It is obvious that industry in general does not feel it has the right to brand even an unsatisfactory wage earner for the rest of his life and make it difficult for him ever to get another decent job. Probably legal difficulties would soon be raised, if it attempted to do so.

There are ample reasons why the Army should be not less but more scrupulous than industry in this matter. They may be enumerated as follows:

(a) The Army is part of the Government of the United States. If it is to affix character labels on individuals, it should do so for the information of the administrative officials concerned, not for the public, because such official listing carries terrific weight. Condemnatory labels should arise only from judicial proceedings. The Government has a moral obligation to its citizens in the armed forces.

(b) The Army is, at the present time, the largest employer in the country. It has had at any given time in the last few years some 8,000,000 employees. Almost one-tenth of the entire population has been in the Army, more than a tenth in the armed forces as a whole. The condemnation or quasi condemnation of this vast organization carries tremendous force against the individual. This force should not be employed to crush the individual in a way that a big industrial corporation with its lesser responsibility would hesitate to do.

(c) Most of the men in the Army are young. Their lives are before them. Mistakes and weaknesses that now appear may be corrected in the future, but a publicized record against these young men creates not only a handicap in obtaining jobs and veterans' benefits, but also a mental handicap which can depress and torture them for the remainder of their days.

How far the Army goes in this respect is little realized by many, and those who know the facts are so used to them as matters of immemorial custom and "traditions of the service" that they are easily taken for granted. Dishonorable discharges are rightly required when decreed as a result of judicial proceedings in a court martial. Yet as was admirably stated years ago by the officer who served as Acting Judge Advocate General of the Army during most of World War I, Brig. Gen. Samuel T. Ansell, it is often not realized how grave a matter is involved even under such circumstances:

Throughout my service in the Army I have thought that we regard dishonorable discharge against a man altogether too lightly. The military mind does. When

I find sentence of dishonorable discharge against a man, I see in it a terrible punishment and it would be a very serious offense, an extreme case, that would justify me in imposing any long term of confinement. It is a fact that the punishment of dishonorable discharge of the enlisted man, in my judgment, is a very much abused penalty. It means as much to the enlisted man as dismissal means to the officer. Both dishonorable discharge and dismissal are terrible punishments, for this reason—they are continuing punishments. I do not think they have been properly appreciated by the Army. They are punishments which last as long as the man himself lasts, because we want the dishonorable discharge respected by society, employers of labor; we want the yellow sheet that we give the man to be a yellow sheet. It means that man has been expelled and disgraced from the Army. There is something wrong with him. He is bad. He has been unfaithful to his trust. That will stay with him as long as he draws a breath of life. I have followed many of these men and there is something that destroys the spirit and the capacity to come back in this dishonorable discharge (article on Injustice in Military Trials, The Forum, October-November 1919).

The certificate of dishonorable discharge is printed on yellow paper to make it more conspicuous. Big Old English type letters carry the caption:

DISHONORABLE DISCHARGE

FROM

THE ARMY OF THE UNITED STATES

The text (also in large type) reads:

To All Whom It May Concern:

This is to certify that _____, Army of the United States, is hereby Dishonorably Discharged from the Military Service of the United States by reason of the sentence of a general court martial.

The blue discharge has the same effect on the eye. A striking color (blue) is also adopted for this certificate, to call attention to its extraordinary nature. The type is just as big. The word "dishonorable" does not appear and there is no statement of court-martial sentence because there has been no court martial. The "enlisted record" is printed on the back of the certificate, as in all Army discharges. Nevertheless, as experience shows, the discharged serviceman with a blue certificate finds obtaining a position or holding one after he gets it difficult, in much the same way. The mental effects are similar.

(d) Finally, and as perhaps the most important reason for humane-ness and even charity in processes of Army discharge, there is the fact that since 1941 the Army has been made up mostly of men who were drafted into the service. A volunteer has at least offered to subject himself to military discipline, whether or not he realized what it might involve, but the bulk of our soldiers were given no choice. Under Selective Service they were inducted into the Army. The propriety of this is not in question, but the fact of it implies a responsibility in the treatment of these men even beyond that which might be called for in a completely voluntary army. Selective Service took in all who seemed to be physically capable. For obscure physical reasons, reasons of temperament, or of bringing up, or of previous circumstances in life, some of these men were not readily adapted to military life. Some succumbed to temptations they never met until they entered the Army. These are the persons who most easily ran afoul of Army discipline, and found themselves condemned by court martial or by boards of officers. If unfitted for the Army, the Army has the duty of ejecting them; but it has no right to make the remainder of their lives grievous.

Out of these considerations the question arises, why is it necessary for the Army to make so many discriminating discharges, especially those which involve the placarding of character ratings?

It is suggested that the Army give due consideration to having a form of discharge parallel to that sometimes employed in industrial life, of a nature described above. The discharge might be in a form similar to this:

DISCHARGE FROM THE ARMY OF THE UNITED STATES

To Whom It May Concern:

John Doe is hereby discharged from the military service of the United States
 Period of service.....to.....
 Highest rank held.....
 Place of discharge.....
 Reason for discharge.....

Under the last heading a few standard phrases should be employed, as—

Expiry of enlistment;
 Demobilization;
 Medical;
 Administrative;
 Sentence of general court martial;

and others which may be needed.

Only the discharge by reason of sentence of general court martial should be regarded as a dishonorable discharge. All present causes for blue discharge might be grouped under "Administrative."

SUMMARY

1. The Army, like other organizations, finds it necessary to separate from the service many enlisted men who for one cause or another are unsuitable for its purposes. Cases of difficulty arising out of purely medical or technical considerations can be discharged through procedures now employed more or less satisfactorily. Persons so dismissed are given an honorable discharge. Others are more complicated cases involving personality factors, difficult to estimate, but such as to render the man in question unsuitable for military service. He may never have given grounds for actual court-martial proceedings which would justify a sentence of dishonorable discharge. Nevertheless the Army, or that particular unit of the Army where he is, does not want him. In these cases the Army falls back upon the procedure of having the man in question examined by a local board of officers, and if they find he has "undesirable habits and traits of character" or that his service has not been "honest and faithful" he is separated from the service with what is called a "discharge without specification as to the character of service," which it is asserted is "neither honorable nor dishonorable." Although it is directed that "attempts at rehabilitation" be made prior to the board proceedings, it is not directed that one or more of these attempts be made by transferring him to an entirely different organization.

2. Examination of individual case histories reveals that the procedure involved in these cases is, in practice, frequently less than just to the man involved. At best, a man whom some company officers have already decided against in their own minds has little chance of survival. The procedure lends itself to dismissals based on prejudice and antagonism. The man against whom allegations are brought has

no counsel. No record of the proceedings is given him. Vital elements laid down in regulations for his protection can be, and sometimes are, entirely ignored. Decisions on such subjects as "habits and traits of character" are necessarily subjective and often highly questionable.

3. The nature of this discharge as "neither honorable nor dishonorable" is in itself illogical, and in some cases patently insincere.

4. The practical effects on the person discharged differ little from those of a dishonorable discharge, which can be given only as the result of judicial sentences of courts martial. The discharged man finds it difficult to get or keep a job. The suspicion of society is aroused against him, all the worse in some ways for carrying an atmosphere of mystery.

5. The Veterans' Administration, with the approval of the Army, sorts out these discharges which are neither honorable nor dishonorable, into two classes those which are really "honorable" and those which are really "dishonorable," in its estimation, denying to holders of the latter veterans' rights in education and other benefits under Public Law 346, Seventy-eighth Congress.

6. The whole practice of affixing moral labels on individuals by the Army is a survival of obsolete conceptions. There is no reason why all separations from the service other than those of men convicted of serious offenses by judicial processes should not be regarded as essentially honorable, though it is not necessary for them to be so designated. The cases considered under the blue discharge system are essentially discharges for administrative reasons in the interests of greater efficiency in the service. The Army should not attempt moral labels.

7. The practice involved in blue discharges is particularly offensive in view of the fact that most of the men now in the Army were inducted. They had no choice but to enter. The Nation required their induction in the service. If the Nation finds they are misfits in the service, it has a special obligation to see that they are dismissed with as little prejudice as possible. Public confidence in and affection for the Army is not enhanced by the treatment which has been accorded many men compelled to serve and then ejected with what amounts to a disgrace for life without benefit of judicial hearings.

RECOMMENDATIONS

1. That procedures be instituted for an automatic review of all blue discharges issued since the beginning of the present emergency, for the purpose of restoring such discharges to the status of honorable discharges in all cases where the records admit of any doubt, the soldier to be given the advantage of the doubt.

2. That in all cases in which an honorable discharge is granted in lieu of a blue discharge, the honorable discharge be dated back to the time of the original discharge, the latter to be canceled.

3. That the proceedings of boards of officers convened in accordance with AR 615-368 1, c, and similar regulations be required to show that the repeated attempts at rehabilitation called for in that regulation have actually taken place over a reasonable period of time preceding the bringing of an enlisted man before the board; and that these attempts at rehabilitation have included the transfer of the

enlisted man for service under other commissioned and noncommissioned personnel.

4. That the proceedings of such boards be required to show in every case where necessity is indicated, complete and unbiased records of medical examinations, such examinations to take place specifically in connection with the investigation then being made.

5. That an enlisted man against whom allegations are made before a board of officers be furnished counsel, should he so desire, or be permitted to engage counsel of his own choice if he prefers.

6. That copies of the proceedings of such boards of officers be furnished to enlisted men discharged under these proceedings, upon request.

7. That the certificate of a discharge given "without specification as to the character of service" bear upon its face, in clear print, a statement to the effect that "this is not a dishonorable discharge."

8. That consideration be given to the advisability of adopting the following classifications of discharge:

(a) *Honorable discharge*.—This discharge to be substantially as at present but possibly somewhat more restricted to make it more meaningful.

(b) *Discharge under honorable conditions*.—This discharge to cover separations from the service by reason of minority, writ of habeas corpus, inaptness, inadaptability, enuresis, physical disability resulting from own misconduct, and parallel situations.

(c) *General discharge*.—This discharge to be given only by judgment of a special court martial, or a board of officers following judicial procedure parallel to that of a special court martial, including right of counsel, and in addition a stenographic report of the proceedings available to the soldier against whom proceedings are taken. This discharge to cover cases of continuous misconduct, aggravated absence without leave, fraudulent entry into the Army, conviction of a serious offense by a civil court, refusal by alien citizens to serve in any theater of operation, and parallel situations. The certificate of general discharge to carry (but not in large print) a statement to the effect that the holder of this discharge is not eligible for reenlistment or to benefits under the Veterans' Readjustment Act of 1944 and similar legislation.

(d) *Dishonorable discharge*.—This discharge to be given pursuant to a sentence of a general court martial or a military commission, and under no other circumstances.

CARL T. DURHAM, *Chairman*.

ROBERT L. F. SIKES.

ARTHUR WINSTEAD.

MELVIN PRICE.

THOS. E. MARTIN.

IVOR D. FENTON.

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